

The new trend is that people not sick are filing. They may have been exposed to asbestos, and there may be some showing of asbestos in the pleura or their lungs, but it has not had a debilitating effect or not caused cancer or anything like that, and they are filing by the tens of thousands, saying they might get sick. But they are not sick yet.

What do you do? It is perfectly appropriate that this Congress act. We do it with workmens' compensation. A person is injured on the job, they get compensation under certain circumstances. It is a lot easier to get it, but it is limited and you do not have to pay so much expenses and it works pretty well. That is all by regulation. We do not leave everything totally to juries, judges, and lawyers to settle.

I believe in the principle of the Congress stepping in, when necessary. The fundamental reason I believe, is that, in my view, in the history of the most magnificent legal system we have, the Anglo-American heritage of law, we have ever had a system that has been as abused. Sixty percent of the money paid out by the defendant companies, over half of it, 60 percent according to testimony we had a number of years ago in the Judiciary Committee, does not get to the people who are sick. It does not get to any plaintiff. It is eaten up by court costs, lawyer fees, expert witnesses, and testing companies. That is not right.

It is not right when the defendants themselves admit they are wrong and are willing to pay. In fact, they do pay and they agreed to pay and they have trusts that are supposed to pay, but the trusts are getting drained of money. Companies are going into bankruptcy and fewer and fewer victims are getting paid.

If we care about the rule of law, if we care about decency, fundamental fairness, if we respect law, if we love the law, we should not allow a situation to continue where the defendant companies are willing to pay, and the plaintiffs, some of them desperately need payment, but the plaintiff only ends up getting 40 percent of what is paid out. The defendant companies have to hire lawyers, too, whole law firms. They file papers and disclosures and depositions and expert witnesses. This is just chewing up money, money, money, money.

Now, if somebody has mesothelioma, a cancer that causes death, they ought to be paid. They do not need 60 percent of what they are entitled to, to go to some lawyer, some defense lawyer or some expert witness or court cost. And they ought not to die before they get it.

Under this bill, if you file a claim and you have mesothelioma—which is tied directly to asbestos—it is caused very few times other than by asbestos, and you can demonstrate exposure to asbestos and mesothelioma, you get \$1 million. That is what the latest figure is. And you do not need a lawyer at all. You get it now. Under the current sys-

tem, they file lawsuits, months go by before anything results. The plaintiff wants \$25 million. The defendant wants to pay \$500,000.

They go along and along, and all the time the families are suffering, the plaintiffs are suffering, and maybe even dying. That is not good. Then, when it is paid, finally, some of the companies do not have the money. Some insurance companies say they are not liable for this part of the claim, and it goes on and on and on.

I deeply believe we need to end this spasm. This is not good. It is not something any lawyer can be proud of. In fact, I think everybody is embarrassed by it.

Let me read from Justice Ruth Bader Ginsburg of the Supreme Court, a former member of the ACLU—one of the more liberal Justices. This is what she wrote in 1997:

The argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair and efficient means of compensating victims of asbestos exposure. Congress, however, has not adopted such a solution.

In 1997 she wrote that; and we have been battling this ever since. Every effort has been made.

Now we have proposed a \$100 billion fund—not millions—\$100 billion, set aside for payment of these claims. That is apparently not satisfying everyone. In *Ortiz v. Fiberboard Company*, in 1999, Justice Souter—another one of the liberal members of the Supreme Court—said:

The elephantine mass of asbestos cases defies customary judicial administration and calls for national legislation. To date, Congress has not responded.

We have people here who are filibustering this bill from even coming up, saying they are being rushed. This bill and this idea and this concept of creating a nationwide claims processing regime, as Justice Ginsburg called it, is overdue by decades. It is wrong what we are doing. It is being blocked, I can only conclude, by a partisan special interest effort. The only people who have an interest in continuing this despicable regime are a few lawyers who are getting absolutely rich from it—\$54 billion, and you have a 40-percent contingency fee.

Senator HATCH said, when this thing is over, lawyers would make \$100 billion. And don't think it is a lot of them. It is not a lot of them. It is not the basic plaintiff bar. These lawyers have 10,000, 20,000, 30,000 cases they are handling. It is not right. It is wrong. The people who are blocking this need to be ashamed of themselves.

The Supreme Court Justices have called for reform. It is threatening our economy. They develop schemes now where companies that had even the most tangential connection to asbestos are getting sued. If you can just ever tap them. If a company bought a company that dealt in asbestos, and that company had ceased dealing with asbestos for 10 years, they can be bank-

rupted because they have become liable for the company they bought, their actions 10, 15 years before they bought it. Do you think that is not possible? It is possible. It is happening right now.

These companies and the insurance companies and the reinsurance companies have come together and put up \$100 billion—\$100 billion. All we need to do is set up an administrative claims processing system where persons who are sick, who have any disability, really any health defect can file a claim. Those who are not ready, those who do not have a claim, who fear they might be sick at some time in the future, can file their notice and will be given a constant monitoring of their health. If they do get sick, they can be compensated fully.

So we would be getting money to the people who are sick. We would be reducing the need for these huge, outrageous legal fees from the plaintiffs' lawyers. We would be eliminating all the lawyers' fees paid by the asbestos companies.

There are companies that bought asbestos companies, and people who sold brake shoes, and anybody who had anything to do with asbestos, who are being sued. Now there are 8,400 companies being sued. Most of them never produced asbestos, never knew anything about asbestos, never dealt with asbestos. So these people are willing to put up \$100 billion.

We simply ought to be able to establish a system by which sick people can be paid, and paid promptly, without these costs. If we do not, who is going to lose most? The plaintiffs are going to lose. These companies are going into bankruptcy. It is hurting this economy. It will continue to hurt America's economy.

I thank the Presiding Officer. I appreciate the opportunity to share these remarks. I think it is important. I hope the Senate will move forward.

I yield the floor.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, it is my understanding the majority leader is on his way.

I will withhold and ask the distinguished majority leader to do the close and then allow me to finish my speech.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I appreciate the consideration. I will move through, fairly quickly, some business that finishes up on today and explains what we will be doing tomorrow.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.